

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

On re Application of: Elledge, et al.

Application No.: 09/488,364

Filed: January 12, 2000

For: MAMMALIAN CHECKPOINT GENES \$
AND PROTEINS \$

www.elsevier.com/locate/jmb

Group No.: 1655

Examiner: **Bradley L. Sisson**

Box DAC

Commissioner for Patents
Washington, D.C. 20231

Express Mail No. EL 922860641 US

DATE OF DEPOSIT: December 12, 2001

This paper and fee are being deposited with the U.S. Postal Service Express Mail Post Office to Addressee service under 37 CFR § 1.10 on the date indicated above and is addressed to Box DAC, Commissioner for Patents, Washington, DC

Name of person mailing paper and fee: Marisa Sweeney

Signature of person mailing paper and fee

**PETITION FOR REVIVAL UNDER 37 CFR 1.137(b) OF AN APPLICATION FOR
PATENT ABANDONED UNINTENTIONALLY**

Applicants respectfully request that the above-identified application be revived because it became abandoned unintentionally. The above-identified application became abandoned for failure to prosecute because Applicants' representative unintentionally failed to file a reply to the Notice of Allowance. Applicants' representative failed to notify the applicants and the assignee of the application, Baylor College of Medicine, of the allowance of certain claims in the application until after the issue fee had been paid by applicants' representative. The allowed claims were elected pursuant to a restriction requirement while other claims were non-elected. It was and continues to be applicants' intention to prosecute the non-elected claims. Applicants' intention, however, was frustrated by the inadvertent failure of applicants' representative to notify the applicants in time for the applicants to file a divisional application.

To correct the unintentional and inadvertent loss of subject matter, applicants respectfully and earnestly petition to revive the above captioned patent application with reinstatement of the filing date of the parent application with the right of applicants to claim

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priority therefrom, so that applicants may be made whole with the opportunity to prosecute claims that were restricted out of the captioned parent application. Applicants submit the reply that would have been filed. The reply includes a patent application identified as a continuation (in the form of a divisional) of patent application serial no. 09/488,364, as permitted by 37 CFR § 1.137(b).

1. Petition Fee

- ☒ Small entity - fee \$640.00 (37 CFR 1.17(m)(1). A check in the full amount made payable to the Commissioner for Patents is enclosed. Applicant believes no other fees are due. If this is incorrect, the Commissioner is authorized to charge any required fees, or credit any overpayments to Deposit Account No. 07-0153.
- ☐ Small entity statement enclosed herewith.
- ☒ Small entity statement previously filed.
- ☐ Other than small entity - fee \$ _____ (37 CFR 1.17(m))

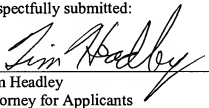
2. Reply and/or fee

- A. The reply and/or fee to the above-noted Action in the form of a copy of the patent application and a preliminary amendment.
 - ☐ has been filed previously on _____.
 - ☒ is enclosed herewith.
- B. The issue fee of \$ _____
 - ☐ has been filed previously on _____
 - ☐ is enclosed herewith.
- C. The filing fee of \$ 370 and cover sheet
 - ☐ has been filed previously on _____
 - ☒ may be charged to Deposit Account No. 07-0153.

3. Terminal disclaimer with disclaimer fee
- ☒ Since this utility/plant application was filed on or after June 8, 1995, no terminal disclaimer is required.
- ☐ A terminal disclaimer and disclaimer fee under 37 C.F.R. § 1.20(d) of \$55.00 for a small entity disclaiming a period equivalent to the period of abandonment is enclosed herewith.
4. Statement. The entire delay in filing the required reply from the due date for the required reply and the delay from the date it was discovered that the application was abandoned until the filing of a grantable petition under 37 C.F.R. § 1.137(b) was unintentional.

Dated: December 10, 2002.

Respectfully submitted:



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